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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,695	11/06/2001	Mark Guy Trowbridge	DN1999119USA	1290

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The Goodyear Tire & Rubber Company
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EXAMINER	
PEZZLO, BENJAMIN A	
ART UNIT	PAPER NUMBER
3683	

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/009,695	TROWBRIDGE, MARK GUY	
	Examiner	Art Unit	
	Benjamin A Pezzlo	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7 and 9-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7 and 9-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3, and 4 rejected under 35 U.S.C. 102(e) as being anticipated by Koeske et al. (US 6250613).

Koeske et al. disclose an air spring for absorbing and transmitting shock loads between parts moveable relative to one another, the air spring including a flexible cylindrical sleeve 102 which is secured at each end to form a fluid chamber therein, a piston 94, the sleeve being secured to one end to a retainer 32 and being secured at the opposing end by the piston, the air spring being characterized by the retainer having an intermediate ribbed reinforcement structure 10 to strengthen the retainer, allowing for direct mounting of the air spring to one of the moveable parts (see col. 4 lines 56-59), the intermediate ribbed reinforcement structure of the retainer comprising an outer plate (see col. 1 line 9: note that the spacer can be used for the bead plate 16, thus a structure congruent to outer plate 18 would be used for the bead plate side) and an inner plate 46 which are parallel to each other, and a plurality of ribs 56 that extend between the outer plate and the inner plate.

Re claim 3, Fig. 3.

Re claim 4, see ribs 82.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koeske et al.

Koeske et al. fail to disclose the characteristics of the materials which make up the retainer. Nonetheless, where the only difference between the prior art and the claims is a recitation of specific dimensions and the device having the claimed dimensions would not perform differently than the prior art device, the claimed device is not patentably distinct from the prior art device. *Gardner v. TEC Systems, 220 USPQ 777 (Fed. Cir. 1984),* See MPEP 2144.04.IV.A. Here, the claimed dimensions do not cause the claimed invention to function differently than the device disclosed by Koeske et al. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to provided the device of Koeske with the claimed tensile and flex strengths in order to provide sufficient mechanical strength to the device.

Re claim 6, see col. 3 line 42.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koeske et al. in view of Geno et al. (US 4946144).

Koeske et al. do not disclose air inlet means extending through the intermediate ribbed reinforcement structure. Geno et al. disclose a retainer including ribs (see col. 4 lines 50-58) and

air inlet means extending therethrough. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have provided the retainer of Koeske with air inlet means extending through the ribbed reinforcement structure thereof in order to provide the spring with adjustable internal pressure.

6. Claims 9-11 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koeske et al.

Koeske et al. fail to disclose the retainer being formed as a unitary article. In *In re Larson 144 USPQ 347 (CCPA 1965)*, the court ruled that providing a one-piece construction would be merely a matter of obvious engineering choice. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have provided the retainer of Koeske et al. as a one piece construction as a matter of obvious engineering choice.

Re claim 10, Fig. 3.

Re claim 11, see ribs 82.

Re claim 2, see ribs 56.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Benjamin A. Pezzlo 3/21/03

Benjamin A Pezzlo
Examiner
Art Unit 3683

BAP
March 21, 2003